
Appeal Decision

Site visit made on 18 August 2016

by Jane Miles BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 12 October 2016

Appeal Ref: APP/C1435/W/16/3143595

The Orchard, Highlands Lane, Chiddingly, East Sussex BN8 6HE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr & Mrs S Coxhead against the decision of Wealden District Council.
 - The application ref: WD/2015/0329/F, dated 16 February 2015, was refused by notice dated 24 August 2015.
 - The development proposed is replacement of mobile home with detached dwelling.
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Decision

1. *The appeal is allowed and planning permission is granted for replacement of mobile home with detached dwelling at The Orchard, Highlands Lane, Chiddingly, East Sussex BN8 6HE, in accordance with the terms of the application, ref: WD/2015/0329/F, dated 16 February 2015, subject to the conditions listed at the end of this decision.*

Preliminary Matter

2. The appeal proposals were amended during the planning application process. The Council's refusal relates to the revised plans, as does this appeal decision.

Reasons

Background & Main Issue

3. The site's planning history, as set out in the Council officers' report, includes the following: three permissions for 'site for caravan' (1960, 1967, 1973); a certificate of lawfulness for use of caravan as dwelling (1992); a confirmation that permission was not required to replace the 'current mobile home' with another within the definition of a caravan (2006); six applications for a permanent dwelling on the site. Of the latter, the earliest (in 1973) was not determined and, of the five refusals, two were dismissed on appeal (in 2005 and 2008¹). Other than this history section there are no plans and few additional details elsewhere in the appeal documentation of the items listed. The appellants' statement of case does however include the reference number for the 2008 appeal².

¹ Before the *National Planning Policy Framework* (2012) came into effect and before the Wealden Core Strategy Local Plan (CS) (2013) was adopted

² Appeal reference (APP/C1435/A/07/2050768, dated 15 January 2008,

4. It is also relevant to note at the outset firstly a neighbouring occupier's submission that the site has not been in continuous residential use since the 1960s, and that it was not so used at least between 1992 and 2003³. Secondly, despite that submission and given the content of the Council's planning history, I have no reason to doubt that the appeal site could continue to be used indefinitely for the siting of a mobile home, without any occupancy restriction, in the event of this appeal being dismissed.
5. The **main issue** in this appeal is whether or not the appeal site is an appropriate location for the proposed permanent dwelling, having regard to development plan policy, the *National Planning Policy Framework* and any other planning considerations. Those considerations include housing land supply; the effect of the proposal on the character, appearance, significance and setting of Chiddingly Place (Grade II* listed) and the Chiddingly Conservation Area (CA) (the designated heritage assets); the effect of the proposal on the character and appearance of the surrounding area and landscape; accessibility to services and facilities.

Policy framework and housing land supply

6. The development plan is the starting point for assessing this proposal and, in this case, it includes saved policies of the Wealden Local Plan (LP) (1998) and policies of the Wealden CS. Taken together, their policies seek to restrict new housing in the countryside outside defined development boundaries, unless proposals meet certain exception tests. As the permanent dwelling proposed on the appeal site would be outside any development boundary, and thus in the countryside for planning policy purposes, it would not satisfy any of those tests. It would therefore conflict with the development plan, most notably with saved LP Policies GD2 and DC17; CS Policy WCS6.
7. However in its response to the appeal the Council has indicated that it cannot currently demonstrate a 5-year supply of deliverable housing sites. In these circumstances paragraphs 14 and 49 of the *Framework* are engaged, relevant policies for the supply of housing should not be considered up-to-date and there is a presumption in favour of sustainable development. Insofar as the policies listed above restrict development to locations within development boundaries they fall to be considered as policies for the supply of housing.
8. Therefore, as the Council acknowledges in its appeal submissions, permission should be granted in this instance unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the *Framework* taken as a whole (unless material considerations indicate otherwise) or where specific *Framework* policies indicate development should be restricted. Policies relating to heritage assets appear in the list of 'specific' *Framework* policies at Footnote 9 to paragraph 14, and consequently this is the next matter to consider.

Character, appearance, significance and setting of heritage assets

9. Although the Chiddingly Place complex and that part of the CA drawn tightly around it are both heritage assets, they are roughly 120m and 90m respectively to the south-east of the appeal site boundary⁴. Separating them from the appeal site is an undeveloped area, planted with trees and bounded

³ Albeit an aerial photograph provided in support of this is undated

⁴ The difference being due to the width of the garden area on the west side of the listed building

with hedging along both sides, which now creates a clear break in visual terms⁵. The imposing Chiddingley Place is undoubtedly of considerable historic interest and significance. Even so I have found nothing in the appeal representations and I saw nothing during my visit to suggest the appeal site, on the far side of the intervening land has, or has previously had, any notable historic, functional or visual relationship with the Grade II* listed building and/or its grounds.

10. I have borne in mind that the settings of heritage assets can often amount to extensive areas. However in this particular site context, and not least given the extent and nature of the separation, I find that a two storey dwelling in place of the existing mobile home on the appeal site would neither impinge on, nor detract from, the setting of the listed building and the CA to any harmful degree. Nor would it diminish the ability to understand and appreciate the significance of the heritage assets. I conclude therefore that the appeal scheme would not harm the character, appearance, significance or setting of the two heritage assets. I further conclude there would be no conflict in this respect with the development plan or with the *Framework*, such that the policies in Section 12 of the *Framework* do not in this case indicate that development on the appeal site should be restricted.

Character and appearance of surrounding area and landscape

11. Part of the long-established rationale for restricting development in the countryside is to preserve its intrinsic character. Highlands Lane is a rural country lane with sporadic built development of various types and sizes at intervals along it, leading in a south-easterly direction to the nearby small village of Chiddingley. It is within the 'Low Weald character area', the general nature of which is described in the supporting text to saved LP Policy EN8. Specific characteristics of the appeal site locality are the relatively flat fields, hedgerows and trees, both in the hedges and in small woodlands. The site itself has tall mature trees along its north-west boundary (to Latchets, the adjacent dwelling) which, with the hedging and trees to the south-east, contribute to the area's overall rural character.
12. I have borne in mind references to differences between caravans/mobile homes and permanent dwellings. In visual terms however the mobile home currently on the site does not appear either mobile or temporary and it sits on a plot which, although large, already has well-established domestic characteristics. As I understand it the existing substantial timber clad and pitched roof structure is the maximum size permissible for a 'caravan'. Moreover, as I have already noted, I have no reason to doubt that use of the land for the siting of a caravan/mobile home could continue indefinitely. The mobile home could be replaced periodically as necessary, possibly in a form that would sit less comfortably in its rural surroundings than the existing one.
13. In these specific circumstances the differences between a mobile home and the proposed dwelling, in terms of their impacts on the character and appearance of their surroundings, amounts to little more than the visual impacts of the proposed dwelling's first floor and roof levels. The height of its main ridgeline would not exceed that of the adjacent dwelling and nor would the size of its principal two-storey element differ greatly. A design incorporating recessed

⁵ Said by the appellants to be a change since 2008, albeit there is nothing before me which illustrates the site and adjacent land as it would have been seen by the Inspector at that time

elements and elements of differing heights and size would minimise its overall bulk and scale. Moreover, as noted in the officers' report to the Planning Committee, the proposed dwelling's external appearance would 'replicate dwellings found in the rural area, and introduce some modern design detailing'.

14. In addition the proposed dwelling would be adjacent to an existing dwelling of relatively modern appearance on one side and a sizeable gap on the other. The value of that gap in providing separation from the listed building complex would weigh against any future proposals for development within it. It is also an element of the particular site context for the proposed development, which is unlikely to be repeated elsewhere.
15. Taking account of all the above points I find that the permanent dwelling would not appear unduly large, prominent or out of character in its rural setting. It would not consolidate built development along the lane to such an extent that it would harm the surrounding area's character, appearance or landscape. Therefore, notwithstanding the dwelling's permanence and the additional mass at first floor and roof level, I conclude that it would not detract from the character and appearance of its rural surroundings to any harmful degree. I find no material conflict in this respect with the development plan.

Accessibility to services and facilities

16. Although this matter does not feature in the Council's refusal reason it is noted in the Council's appeal statement that the appeal site location is relatively unsustainable in terms of access to services and facilities, including public transport. Concentrating most new housing in locations with good access to services and facilities is also part of the rationale for restricting new housing in the countryside, and it underlies the development plan's hierarchical settlement strategy. However I understand Chiddingfold has been identified as a possible location for up to ten new dwellings⁶ in the early stages of preparing a new local plan. Given its early stage that option cannot be given much weight but it does represent a change in circumstances since the 2008 appeal decision. It suggests the village may no longer be considered so unsustainable a location, in terms of access to services and facilities, as to preclude new housing.
17. Moreover, and significantly, the mobile home is in effect an existing dwelling on a site where such use appears to have been considered acceptable for several decades, even if that use has not been continuous. There is no suggestion that occupation is restricted in any way (such as by an agricultural occupancy condition for example), or that unrestricted residential use could not continue indefinitely. In the circumstances of this particular case I find it reasonable to treat a mobile home on this site as a permanent rather than a temporary use. On this pragmatic basis a permanent dwelling would not be a 'new' dwelling as such. It is primarily for this reason that I give little weight to the Council's point relating to the sustainability of the location.
18. The Council also refers to paragraph 55 of the *Framework*, which is concerned with the location of housing and sustainable development in rural areas. However, even if it were appropriate to treat the appeal proposal as a 'new isolated home in the countryside', paragraph 55's list of special circumstances does not preclude finding other circumstances 'special'. Given the particular

⁶ In the Wealden Local Plan – Issues, Options and Recommendations document

history of the appeal site and also its proximity to other dwellings and the main part of the village, I find no material conflict with paragraph 55.

Other matters and the planning balance

19. The Council's refusal reason includes a concern that the appeal proposal would result in a loss of low-cost accommodation. However, whether the existing mobile home is occupied as three small units (as at present) or even as one larger one, there is no development plan policy or other means of ensuring it provides accommodation at low cost. Moreover, given the increasing sophistication of products now available it is by no means certain that another mobile home unit would be a low cost option: a high quality specification and modern design⁷ might not be compatible with low cost accommodation. I therefore give this element of the Council's case little weight.
20. The permanent dwelling is intended to provide flexible family accommodation for three generations, including an annexe for a disabled elderly relative. The appellants highlight that the *Framework* advocates delivery of a wide choice of housing to meet the needs of different groups in the community, including the elderly and those wishing to build their own homes. A permanent dwelling built to modern standards of insulation and energy performance would accord with the *Framework* in this respect, and with elements of the social and environmental dimensions of sustainable development. There would also be some economic benefit during the construction period. These are benefits in favour of the proposals, which have local support. Bearing in mind also that the dwelling would replace existing accommodation rather than boost the supply of additional housing units, I give these benefits moderate weight.
21. Given the siting and orientation of the proposed building, together with the lateral separation from Latchets and the intervening trees, the proposed development would not harm living conditions at that neighbouring property to any material degree.
22. To conclude, a new permanent dwelling on the appeal site would conflict with the development plan because of its location in the countryside. However, due to the lack of a five-year housing land supply, development plan policies relating to the location of new housing cannot be considered up-to-date. Thus, having had regard to all other matters raised and having found that specific *Framework* policies do not in this case indicate development on the appeal site should be restricted, I must consider whether any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the *Framework* taken as a whole.
23. I have found that the proposal, replacing existing residential accommodation, would have moderate benefits. It would also accord with all three dimensions of sustainable development and, bearing in mind the fallback position of indefinite use of the land for siting a mobile home, it would not result in any significant harm. Thus I find no adverse impacts that would significantly and demonstrably outweigh its moderate benefits, assessed against policies in the *Framework* taken as a whole. It follows therefore that the presumption in favour of sustainable development applies and permission should be granted, subject to conditions.

⁷ Such as the example included in the appellant's submissions

Conditions

24. A condition specifying the approved plans in necessary for the avoidance of doubt and in the interests of proper planning. Details of measures to protect existing trees and hedging are needed to ensure their long term health, in the interests of visual amenity. For the same reason it is necessary to require details of all external materials to be used in the development. It is reasonable, notwithstanding the existing area available for parking, to require provision of the parking layout indicated on the proposed layout plan, in the interests of highway safety and visual amenity. A requirement to remove the mobile home from the site in due course is necessary, given the extent to which the grant of permission is justified on the basis that it would be a replacement dwelling.
25. However, given the size and nature of the site and also the terms of the Town and Country Planning (General Permitted Development) (England) Order 2015, I find it unnecessary to restrict permitted development rights to alter or extend the replacement dwelling. The conditions which follow are based on those suggested by the Council, with some amendment in the interests of clarity and precision.
26. *Planning permission is therefore granted subject to the following conditions:*
- 1) The development hereby permitted shall begin before the expiration of three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: drawing nos. SC1 (site location plan); SC2 (block plan); 01 rev D (revised floor plans and elevations); 03 rev D (revised site layout plan).
 - 3) No site preparation works or development shall take place until details of all measures to protect existing boundary trees and hedging during the course of development have been submitted to and approved in writing by the local planning authority. Such measures shall accord with 'BS5837:2012 Trees in relation to design, demolition & construction – Recommendations'. Development works shall be carried out at all times in accordance with the approved measures until completion of the development hereby permitted.
 - 4) No development shall take place until samples and/or details of the materials to be used in the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
 - 5) The dwelling hereby permitted shall not be occupied until the car parking and turning area has been laid out in accordance with the site layout plan approved herewith (drawing no. 03 rev D). The parking/turning area shall be retained and kept available for such purposes at all times thereafter.
 - 6) The existing mobile home on the site and/or any materials resulting from its removal/demolition shall be removed from the site within three months of the first occupation of the dwelling hereby permitted.

Jane Miles

INSPECTOR